

THE SECOND *883 e. 3*
C H A R G E
 OF
Whitelocke Bulstrode, Esq;
 TO THE
GRAND JURY
 AND
Other JURIES
 OF THE
County of Middlesex,
 AT THE

General Quarter-Sessions of the Peace,
 held the Ninth of Day of October, 1718.
 at *Westminster-Hall.*

*Printed at the Desire of the Justices of the Peace for
 the County, and of the Grand Jury.*

In the S A V O Y.

Printed by Eliz. Nutt and R. Colling, (Assigns of
Edward Sayer, Esq;) for R. Colling at the Mitre and
 Crown in Fleetstreet, 1718.

THE SECOND

CHARGE

OF

WILLIAM P. BAKER

TO THE

GRAND JURY

AND

Other JURIES

OF THE

County of Middlesex

AT THE

General Quarter-Sessions of the Peace

held the fourth of May, 1818

at Westminster-Hall

Printed at the Office of the Printer of the Reports

the Crown, under the Great Seal

In 1818

Printed by C. D. B. at the Office of the

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To the Right Honourable
*Thomas Lord Parker, Baron of
Macclesfield, Lord High Chan-
cellor of Great Britain, &c.*

My Lord,

THE great *Humanity*, with which
your Lordship treats all Mankind,
and the great *Goodness* with
which your Lordship receives
Men of Distinction, cannot but render you
dear to the whole Nation.

How much more lovely is such a Con-
duct than Learning cloath'd with the mo-
rose and sour Temper of the Cynick! And yet
how much is such a Loveliness increas'd,
when such a Treatment proceeds from a
sincere Heart, and not like that of a Cour-
tier, who never thinks as he speaks, or in-
tends to perform what he solemnly promises!

Your Lordship succeeded that Great and
Excellent Lawyer, that Stout and Honest
Judge, my Lord Chief Justice HOLT, in
the Court of King's Bench; whose exqui-
site Skill in the most abstruse Part of the
Law, that of *special Pleading*, will render
his Memory immortal.

And yet the *Brightness* which shined in
that Court, by his Presence, rather receiv'd

The Dedication.

an Increase than Diminution of Light by your Lordship's Accession to his Seat.

Your Predecessor my Lord Comper, late Lord Chancellor of Great Britain, twice voluntarily gave up the Great Seal with as much Honour as any of his Predecessors ever retain'd it; whose Penetration, Integrity, and natural Modesty caused him to be belov'd of all Men; the latter giving a Lustre even to his Face. Your Lordship is come into a new Scene of Action: A Court of a quite different Nature from that, from which his Majesty has rais'd you. But what can be difficult, tho' new, to a Person endowed with general Learning, a quick Apprehension, sedate Judgment, and of an exalted Genius?

I may say of your Lordship as the Queen of Sheba did of Solomon, who having tasted of his Knowledge and great Abilities, and seen the excellent Conduct of his Family, cry'd out in Rapture; Happy are thy Men: Happy are these thy Servants, which stand continually before thee, and that hear thy Wisdom.

Princes are so much rais'd above the rest of Mankind, that few have an Opportunity of knowing them.

The best Way therefore for a Person to make a Judgment of his Prince, who has not Access to him, is to consider the Qualifications of those, he advances to Great Places.

The mean Abilities of the Minister of State, shews the short Capacity of the Master: But
the

The Dedication.

the great Endowments of the Minister, proclaim the Master a wise Prince.

If this Rule I have laid down be true, our King may be reckon'd a Solomon, for the Choice of your Lordship.

I know nothing tends more to the Support of a Government, than the placing Good and Wise Men in the highest Stations; especially in Courts of Judicature, from whence the unsuccessful go away satisfied, though not pleased.

But then the Honour of such Great Men, ought to be carefully preserved and maintain'd; *their delicate and nice Understandings can't bear the least Ruffle, much less a rude Touch.*

The bold and ignorant, tho' favour'd at Court, should not come near them; it should be told them, as the Heralds used at the Pagan Sacrifices,

Procul, ô procul este Prophani!

Their Province ought not to be invaded by any Great or Whiffling Courtier.

No Man of *Learning, Estate, and Spirit*, can or ought to bear such an *Indignity or Affront*: And *whenever such Great Men are sour'd by such a Treatment*, which causes them to *resign*; the Government has lost an Arm, or a Leg, that should support it.

The principal Rafter of the Building are withdrawn.

Moses

The Dedication.

Moses his Hand is then let down, and *Amalek* is like to prevail.

The Arms of the Crown are supported by two of the bravest and strongest Creatures ; a *Lion*, and an *Unicorn* ; which intimate, That the Wisest and Strongest Heads, and the Best of Men, are most fit to support the Throne and Royal Dignity.

When the contrary to such are chose, the Government becomes lame and infirm, subject to Changes not easily to be foreseen, and falls into Contempt.

May your Lordship continue the Support of the Crown ; and may no Indignity be offered to your Person ; or any Invasion of your Province, to make your Mind uneasy. May all Mankind approach your Lordship with a due Regard : And may you many Years continue the Safety, Ornament, and Glory of the Nation : Which (with your Acceptance of the following Charge) will be an infinite Pleasure to

Your Lordship's

Most Faithful and

Most Obedient

Humble Servant,

Whitelocke Bulstrode.

Midd. ff. *Ad Generalem Quarterialem
Sessionem Pacis Domini
Regis tentam pro Comitatu
Middlesexia, apud Hick's-
Hall in St. John-Street, in
Comitatu prædicto per Ad-
journamentum Die Veneris
scilicet Decimo Septimo
Die Octobris Anno Regni
Domini Georgii nunc Re-
gis Magnæ Britannia, &c.
Quinto.*

THIS Court being of Opinion, that
the Charge given by *Whitelocke
Bulstrode, Esq;* the Chairman, on the Ninth
of *October* Instant, being the first Day of
this present Quarter-Sessions, is a *Pious
and Learned Charge, tending to suppress the
Vices of this Age, to promote Virtue and Re-
ligion, the Honour of God, and Welfare of
the Nation*: Doth as well on their own Be-
halfs, as also at the Request of the Grand
Jury, now assembled, desire that the said
Mr. Bulstrode will be pleased to cause his
said Charge to be printed.

Per Cur'. Harcourt.

To Whitelocke Bulltrode, Esq;
Chairman of this present Sessions.

WE the Grand Jury for the County of *Middlesex* return you our hearty Thanks for your Excellent Charge to us: And humbly desire for the better Information and Encouragement of Constables and other Officers, that you will cause the same to be printed and published,

October 16,
1718.

Joseph Earl.	Jonathan Parsons.
Thomas Repass.	Abraham Clarke.
Peter Triquet.	Peter Bluzee.
Auther Farley.	Caleb Williams.
Abraham Doleal.	William Hage.
George Speere.	Nicholas Cooke.
Richard Sturley.	Ralph Maxeg.
Samuel Reed.	John Thomas.
Paul Batebelor.	John Deane.
Daniel Malley.	John Paine.
John Cookson.	Peter Ferry.
Phillip Nutt.	



THE SECOND
CHARGE
OF
Whitelocke Bulstrode, Esq;
TO THE
GRAND JURY,
And the other Juries.

Gentlemen of the Grand Jury,



YOU have taken upon you a very great Duty; Great, with Respect to the subject Matter, which falls under your Cognizance; and Great with Respect to the Dignity and Antiquity of the Office.

As to the first, the subject Matter is, as to Offences general; but confin'd to Place; for you are

to enquire of *all Offences* which are committed (within this County, either *against the Laws of God, or Man, by any Subject whatsoever.*

Dignity of
the Office.

As to the second, the Dignity of your Office appears, even *ex Vi termini*, *Grand Jury*; which distinguishes you from the *Petty Jury* as Men of greater Consideration.

The Sheriff usually returns (as he ought to do) Gentlemen of the *best Quality, Estate, and Understanding*, in the County, to serve in *this Office*; unless they are exempted by particular Employments, as *Divines, Lawyers, Physicians, and some few others.* You are a *Court of Record*; your *Presentments* are assised, as *Matters of Record*, which are to endure as long as our happy Constitution lasts. You differ only in this from other *Courts of Record*, that your *Presentments* are *traversable*, which the Records of other Courts are not.

Antiquity.

As for the Antiquity of this Office; it is co-evous with the Common Law it self, which is *Time immemorial*; and this Law is *mostly drawn from the Laws of God.*

The *Laws* of this Kingdom may be consider'd under *three general Heads, (viz.)*

First; The *Common Law*, or *general Custom of the Kingdom*; which had its Ground from *Acts of Parliament*, worn out by Length of Time.

Secondly; *Particular Customs in particular Places*, which differ from the Common Law, introduc'd by the several Nations that have been *Victors here*: These may be properly styled, *Leges Loci*; which are strictly to be taken.

Thirdly; The *Statute Laws*, which when they are *negative* toll the *Common Law*, but when they are *affirmative*, do not: They are then only *accumulative.* This Kingdom is di-

vided into Shires and Counties; and some of these have in them particular Corporations, for their better and more orderly Government.

Four Times a Year the *Grand Juries* appear, at the *Four General Quarter-Sessions* of each County and Shire, for the Keeping of the Peace and Tranquillity of the Nation.

Twice a Year, generally, the Judges hold their *Affizes* in every Shire and County, where the *Grand Juries* likewise meet.

And the Corporations have their Sessions, and their Grand and Petty Juries: And these being drawn by our excellent Constitution, from the several Parts of each County and Shire; there can be no Breach of the Law, *morally speaking*, committed within this Kingdom, that can escape their Knowledge.

Gentlemen of the Grand Jury,

The Laws of the Land have set you, as *Watchmen upon an high Tower*, to give Notice to the Government of the *Transgressors of the Law*, of the *Sinners against the Kingdom*, which are the greatest Enemies thereof; for they draw down God's Vengeance upon us: *National Judgments* always, at least generally, follow *national Sins*.

God is the most powerful Being to hurt us, more than any foreign Enemy can do, (but does us always more Good than the best of our Friends) whom we ought to serve, and obey with a Filial Reverence and Love. And as the *Watchmen* that give no Notice of the *Approach of an Enemy*, commit a *Capital Crime* against the Government that has appointed them: So, Gentlemen, if you know, or are inform'd of any Persons that are Violators of the Laws of

the Land, and do not give Notice thereof, by your Presentments, you will be equally guilty of the like Crime.

'Tis a *Maxim in Divinity*, and even in our Law, *Qui non vetat peccare, cum potest, jubet*; that is, He that does not prevent Evils, when 'tis in his Power, does, in Effect, command them to be done; is even a Principal in the Evil.

Have a Care of being Partakers of other Mens Sins; by suffering them to go on through your Default; when by your *Presentments*, and our *Punishments* of the Offenders, they may be reclaim'd and become good Men.

Constables
Jury.

Church De-
faulters.

Let this stick ~~with~~ with you, *Gentlemen of the Constables Jury*, whose Neglect of Presenting Persons for not coming to Church, or some religious Meeting, allow'd by Law, on every Lord's Day, may be the Occasion of the Ruin of many Souls. For tho' Men should not come to Church for Fear of the Penalty of being absent; but on a nobler Principle of Love and Gratitude to our great Creator, and most munificent Benefactor; yet when Men are there present, the Scripture, which, like a two-edged Sword, divides between the Joints and Marrow, may strike so powerfully as to work a Reformation of Mind, and thereby cause them to become good Men in this World, useful Members in the Common Wealth, and eternally happy in the World to come.

Consider therefore, Gentlemen, what Good you may do, by such Presentments.

Compel them to come in; — I think may literally and justly be applied in this Case: Wherein you obey our Saviour's Commands, and may do much good thereby to Mankind. For in this Case, you force not the Conscience, but
compel

compel Men to serve God, even in their own Way, by coming to Church, or to Meetings of their own Perswasion.

Take Care to present Persons that follow their Trades on the Lord's Day, except in Cases of Necessity, or Mercy : God has given us six Parts of Time in seven to follow our honest Employments ; and surely we may well afford to dedicate the seventh Part to the more solemn Service of our Creator.

Trades on
Sundays.

I am credibly inform'd, That the Butchers in *Westminster* Market, *St. James's* Market, *St. Anne's* Market, *Newport* Market, *Clare* Market, *Hungerford* Market, *Brooke's* Market, and the Butchers of *Whitechapel*, do kill their Sheep, and Calves, on a *Sunday*, and hang the Meat out at their Stalls on a *Sunday* Morning, all the Time of Divine Service, as much as on a *Saturday*.

These are great Prophanations of the Lord's Day ; therefore be sure to present the Persons that are guilty thereof.

Gentlemen of the Grand Enquest,

From the frequent Meetings of the Grand Juries of the Kingdom, that are drawn from the several Parts of each County and Shire, and from the Consideration of the Duty incumbent upon them, increas'd by an Oath to present all Crimes, I may well conclude, that if the *Grand Juries* of this Nation would keep their Oaths, and do their Duty, as honest Men, and good Subjects should do ; (which I promise myself that you will do) and if the Justices of the Peace of this Nation would be zealous in Promoting the Peace and Welfare of their Country, being powerfully assisted by the Judges in their Circuits, there would be no
Danger

Danger of Enemies from Abroad, while we were all at Peace and Quiet at Home. And if *Frugality, Sobriety, and Industry*, were practis'd and encourag'd by the *Gentlemen, Freeholders, and Traders* of this Kingdom, there would be fewer Temptations to do Evil for the sake of Money.

Men that do not run out of *their Fortunes*, but live *within Compass*, have but little *Temptation*, by *Offices, or Money*, to play the *Knave*, to *betray their Country*, sell *their Votes*, or do *any base or mean Action*: But when a *Gentleman* has ruin'd his *Fortune* by *excessive Living, Debauchery, Gaming, or Parliamenteering*, the *Temptation* to do what he is *bid*, tho' ever *so wrong*, for a *great Rewards* is too powerful to be resisted by an *ordinary Degree of Virtue*.

Necessitas cogit ad turpia.

Foreigners that see our *Gazettes*, weekly stuff'd with a vast Number of *Bankrupts*, may be apt to conclude that the *Trading Part* of the *Nation* are a *Parcel of Beggars*. But he that sees the *Finery* of their *Houses*, their *rich Furniture*, and *elegant Paintings*; their *Profuseness* and *Delicacies* in their *Entertainments*; their *costly Wines*; their *three Courses* (a); their *Services in Plate*; the *Splendor* of their *Wives and Daughters* within *Doors*; and their *Equipages* of *Coaches* and *six Horses*, *Footmen*, and *Horsemen*, to attend them to their *Country Seats*; would think, he rather met a *foreign Prince* of a *younger House*, or some *English Nobleman*, or a *Gentleman* of the *first Quality*, than a *Trader on the Exchange*.

(a) *Hi sunt, qui comedunt unâ Patrimonia Mensâ.*

No Wonder, after such a *Way of Living*, so many *Traders* become *Bankrupts*; and thereby rob *Widows* and *Orphans* of all their *Substance*. He that picks a *Pocket*, or robs a *House*, is the less *Criminal* of the two: These make a *Prey* often but of *Twenty* or *Thirty Shillings Value*: But the *Bankrupt* often breaks for an *Hundred Thousand Pounds*, and ruins many honest credulous *Families* thereby.

If we had a *Law* that made it *Felony* without *Clergy* for any *Person* that broke through extravagant and luxurious *Living*; it would stop those profuse *Livers* in the *Career* of their *Luxury*, when they consider'd that they were *Riding Post* to the *Gallows*.

Hadrian, the *Roman Emperor*, made a *Law*, That they who ran out of their *Estates*, should be exposed to a publick *Shame* in the *Amphitheatre*, and then banish'd *Rome*.

The *Romans* were a glorious *People* while they lived frugally, soberly, and virtuously; and loved and prefer'd the publick *Welfare* to their private unjust *Gain*; God blessed them with *Victory*; They became *Conquerors* of the *World*. But when *Offices* and *Employments* were set to *Sale*; when the *Romans* parted with their *Morals* to acquire *Offices*, and had no *Regard* for the *Good* of their *Country*; 'twas well and justly said of them; 'Vale, venalis Roma, mox venditura teipsam, si emptorem inveneris. Go, naughty saleable *Rome*, quickly to be sold, if a *Buyer* can be found.' They soon after dwindled away, and became a *Prey* even to the *Barbarians*.

No *Nobleman* or *Gentleman* takes *Money* himself, or suffers any other *Person* so to do, of any one, to put him into his *Steward's Place*; well knowing, that such *Steward* will make himself whole out of his *Master's Estate*.

Vendit

*Vendit Alexander claves, altaria sacra ;
Vendere jure potest ; emerat ille prius.*

The Case is worse, when a Nation suffers such Practices, inasmuch as private Men have more Opportunities, and are generally more jealous in looking after their Servants, than a Government well can. The Virtue even of this Nation is so far lost, (for I spoke before of the Roman) that few Men are just and honest in their Employments, on any other Principle than the Fear of losing their Places; so, that when they can play the Knave, without Discovery, they are sure to lay hold of the Opportunity: For to cheat the Publick, they think is no Wrong: Few, very few, serve the Government in any Offices or Employments, but purely in Order to serve themselves.

Therefore, Gentlemen, if you know of any Wrong or Fraud, done to the Government by any Person whatsoever; be sure to present such; and we will make Examples of them.

Most Nations, in the inflicting Punishments for Offences, do rather respect, in the Punishing Part, what Mischiefs such Offences do to the Publick, than the Malignity or Turpitude of the Fault, with Respect to the Divine Law, or Judgment of God. Thus Theft, which by the Divine Law was punish'd only with a four-fold Restitution, and in some Cases five, is by our Law punish'd with Death. And thus Adultery, which by the Divine Law was punished with Death, by the Common Law, Damages are only given to the Husband in an Action on the Case: And by the Ecclesiastical Laws, the Offender is to do Penance in a white Sheet; the Common Law
not

not directly intermeddling therewith: How well or ill these Things are, belongs to our Legislators to judge.

But I shall begin my Charge to you,

1st ; *With Offences against God.*

2^{dly} ; *With Offences against the King.*

3^{dly} ; *With Offences against your Fellow-Subjects.*

Some Offences are so heinous in their Nature; so foreign to the Lusts, and Passions, and even Wickedness of Mens Hearts; that neither the Divine Majesty, nor his Creature Man, made any Laws against them, 'till both were necessitated so to do, when those Crimes were committed by some Monsters in Nature. The Wisdom both of God and Man herein being to be admir'd, that in the Enacting of Punishments against Offences, neither would suppose Mankind would ever be guilty thereof. For, to forbid a Crime, to a superlative wicked Heart, possess'd by Satan, is to put him in Mind of doing it: Whereas otherwise, he would not, peradventure, ever think of it. Thus there was no Law made by the Divine Majesty, or his Servant Moses against Cursing or Blaspheming (the Name of) God: until the Son of an Israelitish Woman, whose Father was an Egyptian, quarrelling with a Jew, blasphemed the Name of God, and cursed; For this unheard-of Crime and Wickedness, the Standers by seiz'd him, and carried him before Moses, the Chief Justice of Israel. He was surprized at this heinous unheard-of Crime, and committed him to Custody, till the next Day; that (as the Text says) the Mind of the Lord might be shew'd them. And God spoke to Moses to bring forth him that cursed, and bid all the Congregation stone him. And after this Sentence

tence was past and executed on this wicked Wretch; then it pleas'd God to make a general Law, that *Whoever cursed God, or blasphem'd his holy Name, (i. e.) Spoke Evil of God, should surely be put to Death*; which was afterwards a standing Law amongst the Jews; And this is remarkable, that the Mother's Name of this wicked Wretch is mention'd in Holy Writ, and the Tribe he was of; to remain as an eternal Blot and Reproach on that Family and Tribe, for producing such a Monster, as should speak Evil of God, for being an Original in that Sin: And, by the Way, let our prophane Cursers and Blasphemers take Notice hereof, at their Peril; lest when the Books of Remembrance are open'd at the last Day, their Names should be found written there, as Blasphemers; to remain there as an eternal Monument of Infamy to them, and to stare them in the Face, to their eternal Shame and Confusion, to their endless Misery and Pain, which may render them a Shame and Reproach, even to Hell it self, and thereby increase their Anguish.

The Romans are said to have made no Law against Parricide; for they did not suppose, that any Man would be so monstrous, as to take away the Life of that Person that gave him a Being; tho' Nero, and some few other Monsters in Nature, did so. We had no Law against prophane Cursing and Swearing, 'till 21 Jac. 1. when that vile Sin became too fashionable in this Nation; which went a great Way towards bringing upon this Nation, God's Judgment of a Civil War; for National Sins are generally pursued with National Judgments; which is a Proof among many others of God's Government of the World, and that nothing happens by (a foolish Word call'd) Chance.

You are above all Things, Gentlemen, to demonstrate your Zeal for the Honour and Glory of God; which you cannot do better in your Station, than by your Presentments of all Persons guilty of Immorality and Prophaness, as the Proclamation now read to you directs; which I desire you will take along with you, and seriously consider of.

One cannot walk the Streets, or ride the Roads, but if one hears two or three ordinary Fellows talk together, but every other Sentence they curse or damn themselves, or others, by the Name of the Almighty God; in their common and ordinary Conversation; not in Heat, or the Bitterness of Passion, but calmly and sedately, as the natural Dialect of the Beast. They use the most reverend and tremendous Name of God, with as much Familiarity, Sawciness, and Impudence, as they do their Dick or Tom. Oh! transcendent Wickedness! Oh! Impudence never to be forgiven! God has said, He will not hold him guiltless that takes his Name in vain: As if his Majesty had been pleas'd to declare, That no Sacrifice, no Expiation, should atone for such impudent Sins, to which human Nature has not so much as any Temptation: But that the Guilt of such Crimes should always remain upon the Head of the Offenders, to their eternal Shame and Confusion.

God who, by his own Law, has so well secur'd human Properties, as not only to forbid Theft, but even coveting what is another's, knowing that such Coveting is a Step and an Approach to Stealing, is so jealous of his own Glory, that he has forbid us to make any Image or Figure, or any Representation of his Majesty; because all such Actions would fall infinitely short of the Glory of the Divine Majesty; and lessen and bring

down in our Minds the glorious Idea, which we ought to conceive of the infinite Power, Wisdom, and other Attributes of the Almighty: How then will his Divine Majesty resent the perpetual Dishonour of prophaning and despising his holy Name, (that is, his Person) even in the best Reformed Christian Church in the World!

But we have chose Darknes rather than Light. None of us, poor Mortals, that are of a few Inches long, made of Dust and Ashes, and to be resolv'd into Dust and Ashes again; here to Day, and gone to Morrow; but would be very angry, and take it with Disdain: ——— If our inconsiderable Names were treated thus, with Scorn and Contempt, as to be in the Mouth of every ordinary and profligate Wretch, to so vile and impertinent a Purpose.

Whereas the Name or Person of the Almighty God (which in Scripture Language are all one, of the same Import) should never be so much as thought on; much less, spoke; but with the most profound Reverence, with the utmost Love and Affection to so infinite a Bounty; who gives us all the Good we enjoy, and delivers us from all the Evil we avoid, both moral and natural.

The Jews have a Tradition, that Noah and his Family govern'd themselves by seven Precepts, as an Abstract of the Law of Nature; one whereof was, not to blaspheme the Name of God. But that Law had not the Sanction of a Penalty, till God himself enacted it, on the Occasion beforemention'd; which Penalty was Death.

We are taught by our Saviour to pray daily, that God's Name may be hallowed, or sanctify'd: (i. e.) To be esteem'd holy infinitely above all other Names: To be admired, glorified, and praised, even as the Angels glorify it in Heaven.

But instead of that, we Christians *blaspheme* his holy Name an hundred Times a Day, by *prophane Cursing and Swearing* in our common and ordinary Conversation.

A dreadful Sin! Our Legislators indeed have provided against it: But the Execution of this Law is not well attended; and the coming at it, not very easy.

When the *Laws of the Land* cannot keep down a Sin, but it becomes *spreading, rampant, and universal*, I know no other Way, when human Means can't prevail, but that God himself should *interpose by his Almighty Power*; and by *pouring down Vengeance from Heaven*, try to reclaim that People whom human Laws can't reduce. Look to it; for, I am afraid, it's coming upon us: The Plague, it's said, is already broke out in France; and we are very near Neighbours; our Weekly Bills increase; Death's at our Doors; worse than Hannibal ad portas.

Our Common Law has condescended so low, as to punish by Indictment, or Information, a common Scold, *communis Rixatrix*: Now this silly Woman only makes a Noise amongst her Neighbours, and claps her Hands to increase the Sound of impertinent Words; which to the Crowd, is even Musick, but to nicer Ears, somewhat of Jargon or Caw-Jack. Now if this is an Offence against the publick Peace and Quiet of the Nation, which only grates upon the Organ of Hearing on the tender and distinguishing Ears of a wise Person, and sinks no deeper; what must the bearing perpetually of that Name (which, above all Things in the World, we ought to love, reverence, and adore) being daily and hourly *prophan'd, and vilify'd, scorn'd, and contemn'd*, what Impressions of Sorrow and Grief, and the utmost Concern, must it make on all Mankind, that have the least Sense of

of Gratitude to God for his Favours to us, or the least Zeal for his Glory?

I think a common Swearer is a Nuisance to the Place where he lives; and though the Common Law has no Case adjudg'd in this Point, because this Sin was never so rife as it is now; yet since it is a stronger Case than that of a Scold, it hath infinitely more mischievous Consequences;

Ubi par Ratio, ibi idem Jus,

Is a good and true Rule in Law; Where the Reason is the same, the Law ought to be the same. If it be said, That divers Statutes have given Remedies against prophane Swearing and Cursing; I answer, That it's plain these Remedies, or Means, do not attain the End for which they were made: Besides, these Acts of Parliament being only in the Affirmative, do not take away any other Remedy: And as for Precedents, every Precedent had a Beginning; and there can never be a better Precedent, than to make an Example of a common Swearer, by Indicting or Presenting him as a common Nuisance.

Gentlemen,

Set your Faces against this loud and crying Sin; let your Exclamations against it, wherever you come, stifle and suppress it, that the Cry thereof may not go up to Heaven.

Consider what Honour God bestow'd on Phinehas, who was zealous for his Majesty, in the Matter of Zimri and Cozbi: How by that one Act he stopt the Plague, averted God's Wrath, and saved many Thousands; and obtain'd for himself and Posterity the Honour of the everlasting Priesthood.

God

God is the best Master to reward his Servants, and the best Friend to do us good. As for Kings; alas! they see with other Men's Eyes, and hear with other Men's Ears; they often do Injuries to their Friends, and confer Benefits on their Enemies; and it can't well be otherwise. But it is not so with God, who sees, and hears, and knows all Things, and determines with unerring Wisdom.

Therefore if you love, and desire the Welfare of your native Country, the Welfare of your Wives and Children, the Welfare of your Souls, Bodies, and Estates, shew your Zeal in the suppressing of this crying Sin, and in every Thing else that tends to lessen or diminish the Divine Honour and Glory; and be certainly assured, you'll find your Accompt in so doing. The Scripture has pronounc'd a Curse upon him that doth the Work of the Lord negligently, and a mighty Blessing on them who are zealous for the Divine Glory.

Whatever Books or Pamphlets are writ against Books against the Scriptures, or that are contra bonos Mores; or the Scriptures. that tend to the dishonouring of God, or to depreciate the Authority of the Apostles, by exposing their Infirmities, (as if being Men, they should not be subject to human Frailties) which seems to be level'd against all Reveal'd Religion, and to send us back again to Paganism, or that tend to represent our Saviour as a meer Man, which takes off from his meritorious Sufferings, and overthrow the whole System of Divine Goodness, in his superlative Mercy to Mankind, in our Redemption, and in his Oeconomy in the Christian Church; which a late Author seems to drive at, (I mean Mr. Toland) whose pernicious Book, called Nazarenus, is incomparably well answer'd, and confuted by the learned and judicious Mr Mangey. Present the

the Authors, the Printers, and Publishers of such Books.

And so much for Offences against God.

My second Head, is touching Offences against the King.

Under this Head, you are to enquire of *High Treason*. What was High Treason by the Common Law, was very uncertain till the famous Statute of 25 E. 3. reduced the several Species of High Treason to a Certainty.

They may be reckon'd under four general Heads, viz.

- 1st, What concerns the King and his Family.
- 2^{dly}, What concerns his Officers in the Administration of Justice.
- 3^{dly}, What concerns his Seal.
- 4^{thly}, What concerns his Coin.

Of which briefly.

As to the First.

Compassing, or Imagining the Death of the King, Queen, or Prince, and Declaring or Manifesting the same, by some Overt Act, though that Act take not Effect, is High Treason, by 25 E. 3. Declaring by an open Act a Design to depose, or imprison the King; is an Overt Act, to manifest a Compassing of his Death.

Gr. Car. 332. Arthur Crohagan, an Irish Man, and a Dominican Fryer, said at Lisbon, 7 C. 1. He would kill the King, (meaning King Charles the First) if he could come to him. And came afterwards into England for the same Purpose: It was adjudg'd High Treason within 25 E. 3. and he was accordingly executed.

Raising Men to joyn with a Prince that is at War with the King, is adjudged a Compassing the Death of the King, and an Overt Act. But the Levying of War, being a distinct Species of Treason within this Statute, a Conspiracy to levy War is no Overt Act, unless levied.

2 Ventr.
Patrick Har-
ding's Case:
1 W. & M.

But the Solliciting Assistance from Abroad, or at Home, and consulting and agreeing to an Invasion to levy War, are sufficient Overt Acts to prove a Conspiracy, a Compassing, and Imagining the Death of the King, within the first Branch of this Act; as was lately held in *Francia the Jew's Case*.

Francia the Jew's Case.

By the 7 W. 3. There must be two Witnesses to an Indictment of High Treason; (i. e.) to the same Overt Act laid in the Indictment. Or one to one Overt Act, and another to another Overt Act of the same Species of Treason. For where there are two Species of Treason laid in an Indictment, one Witness to one Overt Act, and another Witness to another Overt Act, of a different Species of Treason, shall not be deem'd two Witnesses within that Statute.

7 W. 3.

It is High Treason within this Statute to kill the Chancellor, Treasurer, Justices of either Bench, Justices in Eyre, Assise, or of Oyer and Terminer, in their Places, doing their Office.

The Counterfeiting the Great, or Privy Seal, is High Treason by this Statute.

And so is the Counterfeiting the Coin of this Kingdom.

The Subdivision of these Heads, and the other Species of Treason, by late Acts, having spoken fully to in my Charge lately given here, which is in Print, I refer you to, and shall omit speaking to them now.

D

And

And so much for my second Head of Offences against the King.

3d General.

My third general Head relates to Offences against your Fellow Subjects. Of which some are Capital, and some not.

Of the *Capital*, they are of *three Kinds*.

1st; Such as are committed against the *Life of a Man*.

2^{dly}; Such as *relate to his Goods*.

3^{dly}; Such as are against his *Habitation*.

As to the First: You are to enquire of Murther.

Murther defined

Murther is when a Person kills another, of Malice, within any County in *England*, so that the Party dies of the Wound within a Year and a Day, after the Wound given.

Now though every Killing of a Man is Homicide, yet every Homicide is not Murther, the Terms are not convertible.

As the Laws of God have distinguished in the several Ways by which Men are killed, and of one Man's Killing another; so has our Law.

For if *two Men quarrel, and presently go out, and fight, and one kills the other*; this, by our Law, is call'd *Manslaughter*, and the Party hath his Clergy; in Consideration of *human Frailties*, and the Passions to which human Nature is subject.

But if they *sleep upon it, and fight next Day (the Passions having had Time to cool)* it is Murther.

There was a Case, lately adjudged Murther, that is fit for all the Rakes of the Town to know. Two Men, *Burdet and Winchurst*, went late at Night into *Drury-Lane*, and quarrell'd with the Watch;

Watch ; after that, they met with Captain Falkner with a lewd Woman with him ; he was Stranger to both of them ; they jostled him ; Winchurst had no Sword, but bid Burdet draw ; who drew accordingly ; Falkner drew, and Burdet ran him through, whereof he instantly dyed. It was adjudged Murther in them both, because they had Malice against all Mankind : And they were both executed.

There is a Death called *Chance-Medley* ; which is, 'where a Man doing a lawful Act, without Intent of Hurt to another, yet Death casually ensues. And there is a *Homicide, Se defendendo, which saves his Life.*

Yet in these Cases, such Regard hath the Law for the Preservation of human Life, that a Forfeiture of Goods is incurr'd.

And where a Man is kill'd without the Default or Procurement of another Person ; as by a Fall from an Horse or Cart, or Tree, the Thing that occasions the Death is forfeited. So it is, if One is kill'd by any Beast ; it is a *Deodand*.

But where a Bill is brought to you against any Persons for the Murther of another, you are to find the Bill Murther, as laid ; and not to distinguish, by finding the Bill, Manslaughter, per *Infortunium*, or *Se defendendo*. For you being but in the Nature of Accusers, and your Verdict not final, but traversable, these Distinctions lye properly before the Petit Jury, and not you.

There is a justifiable Homicide, which induceth no Forfeiture. As, if one comes to burn my House, or to rob me in the Highway, or in my House ; if I, or my Servant kill him, it is no Felony, nor Forfeiture of any Thing.

So if a Woman kills him, that assaults to ravish her, it is no Felony, or Forfeiture of any Thing.

And so much for the *first Head*.

As to the second Head, What relates to the Goods of a Man; which may be plac'd under the Title of *Felony*, it may be thus defin'd:

Felony defin'd.

Felony is, where a Thing is taken with a felonious Intent; that is, So privately, that he who takes it, intends that he, from whom it is taken, shall not know it. I speak not here of Robbing on the Highway; for that is a Felony of another Species.

The taking Goods out of a Cart, passing on the Road, adjudged Felony; otherwise, if dropt off the Cart, and taken up in the Road.

21 H. 8. c. 7. It is Felony, if a Servant imbezils his Master's Goods, deliver'd to him to keep, of the Value of forty Shillings, or more.

But this Act does not extend to Apprentices, or other Persons under the Age of Eighteen.

Cr. Eliz. 372. It is Felony to steal Fish out of a Dam, or Pond, or Trunk.

3 & 4 W. & M. By this Act, If a Lodger takes away any Chattels, Bedding, or Furniture, with an Intent to steal, imbezil, or purloin them; tho' he had them by Contract, or Agreement, to use them in his Lodgings; it is Felony.

1 Vent. 187. If one cuts Corn, and lets it lye, after it is cut; and at another Time, he comes and steals it; it is Felony.

Kelynge 931. One broke an House in the Day-Time, no Body being in the House, and took Plate out of a Trunk there, and laid it on the Floor; but before he carried it away, was surprized. 'Twas adjudged Felony. For by taking the Plate out of the Trunk, he had the Possession of it, and that is 39 Eliz. c. 15. Stealing, and Felony, and Clergy tolled by 39 Eliz. being above five Shillings in Value.

A Man may be guilty of Felony, in *Stealing* Cr. Car. 377. *his own Goods.* E. g. If a Person delivers his own Goods to one, to make Use of, and the Owner afterwards *privately steals them, to the Intent* to charge the Party to whom delivered; it is Felony.

If Cattle are *distrain'd*, and put in a Pound, *Kelynge* 44. and one who hath a *Design* to steal them, goes to the Sheriff and gets a *Replevy* for them, and by Colour thereof, the Cattle are *deliver'd* to him, he drives them away, and sells them, having no Colour of Title to them: This is Felony.

And let this suffice for Felonies relating to Stealing. The common Thefts of Picking Pockets, Cutting Purses, and Robberies on the Highways, are so well known to you, that I shall not so much as suspect your Knowledge and Understanding, as to think you stand in Need of any Detail of them, or Information concerning them.

My Third Head is of Offences against a *Man's Habitation.*

And first of *Burglary.*

Burglary, by the Common Law, is where a Person, in the Night-time, breaketh, and entereth into the Mansion-House of another, to the Intent to commit some Felony there, tho' that Intent be not executed, and though, casually, no Person be in it. Burglary defined.

By Night is meant, when it is so dark, or duskish, that by the Light of the Sun, you can't distinguish the Face of one Man from another. What Night.

The Entering into a House, tho' the Doors are open, is a *Breaking of the House, in Construction*

tion of Law, to maintain a *Trespass*, but not a *Burglary*.

What a
Breaking.

But if a Thief breaks the *Window*, draws the *Latch*, unlocks the *Door*, these are a *Breaking*.

A *Sash Window* was somewhat up; but not so high that the *Burgler* could get in; he lifted up the *Sash* so high as to get in, and then went in, and was taken: *Adjudg'd Burglary*, and the *Man* executed for it.

What an
Entry.

Setting the *Foot* over the *Threshold*, putting a *Hand*, or a *Hook*, through the *Window*, or over a *Door*, to draw out *Goods*, is an *Entry*.

In some *Cases*, a *Burglary* may be committed without a *Breaking*, or *Entry*. Divers come to commit *Burglary*, and one does it, the rest watch at the *Lane's End*; it is *Burglary* in all of them.

A Thief gets in by the *Doors* open in the *Day-Time*, lies there till *Night*, then robs, and breaks the *Doors* in the *Night*, to get out: 'Twas doubted, Whether this was *Burglary*, or not: But 12 *Annæ* has declared, and enacted it to be *Burglary*.

12 *Annæ*, c.7.

What a Man-
sion-House.

A *Church* is a *Mansion-House* within this *Law*; for 'tis *Domus Mansionalis Dei*. Chambers in an *Inns of Court*, or *Chancery*, are *Mansion-Houses*: And so is a *Shop*, whether *Parcel* of a *Mansion-House*, or by it self, in *Construction of Law*.

Kelynge 42,
43, 44.

Thieves came to the *House* of *Le Mott*, with Intent to rob him, and finding the *Doors* lock'd, pretended they came to speak with him; whereupon a *Servant* open'd the *Door*; they came in, and robb'd him, this being in the *Night*. *Adjudg'd Burglary*.

For the *Intention* being to rob, and getting the *Door* open on a false *Pretence*, was in *Fraudem Legis*, and so they were guilty of *Burglary*, tho'

tho' they did not actually *break the House*. For this was in Law an actual Breaking, being obtain'd by Fraud, to have the Door open.

So if a Man pretend a Warrant to a Constable, and get him along with him, and, under that Pretence, get the Doors open'd to them, and rob the House; if in the Night, it is Burglary.

So if an *Habere facias Possessionem* is obtain'd by Fraud, and Possession got, and Goods taken away by Night; that is Burglary, being in *Fraudem Legis*.

By this Act, if a Robbery is done in the Night, or in the Day, in a Booth, or Tent, the Owner being therein, Sleeping or Waking, is Burglary. Ed. 6. c. 9.

If any Person steals any Goods, Wares, or Merchandise, privately and feloniously, of the Value of five Shillings, or more, in any Shop, Warehouse, Coach-house, or Stable, by Night, or Day, though the Shop is not broke open, or any Person put in Fear, or shall assist, hire, or command any Person, to commit such Offence, shall lose the Benefit of Clergy. 10 G. II W. 3. Shop-lifting.

If any Inmate's Chamber-Door is broke open in the Night, it is Burglary: But the Indictment must be *Domum Mansionalem* of him that let it, and not of the Inmate; and Stealing the Goods of the Inmate. Kelynge 83.

He that burns another Man's House maliciously and voluntarily, is guilty of Felony.

And so much for Offences against a Man's Habitation.

As for Offences not Capital, I shall begin with Gaming Houses.

These

Gaming-
Houses.

These are of *two Sorts* : The one helps to undo *ordinary Men*, such as *Day-Labourers*, *Apprentices*, *Servants*, and *Handy-Craft Tradesmen*: The other to undo *Gentlemen of Quality*, and *Fortune*; not to mention *Noblemen*.

The first are such *Alehouses* that have *Shovel-board Tables*, *Nine-pins*, and *Bowling-Alleys* belonging to them. Here the People I first mention'd, come at *Night*, spend and lose that *Money* at one *Sitting*, which would keep their *Families* the *Week* following.

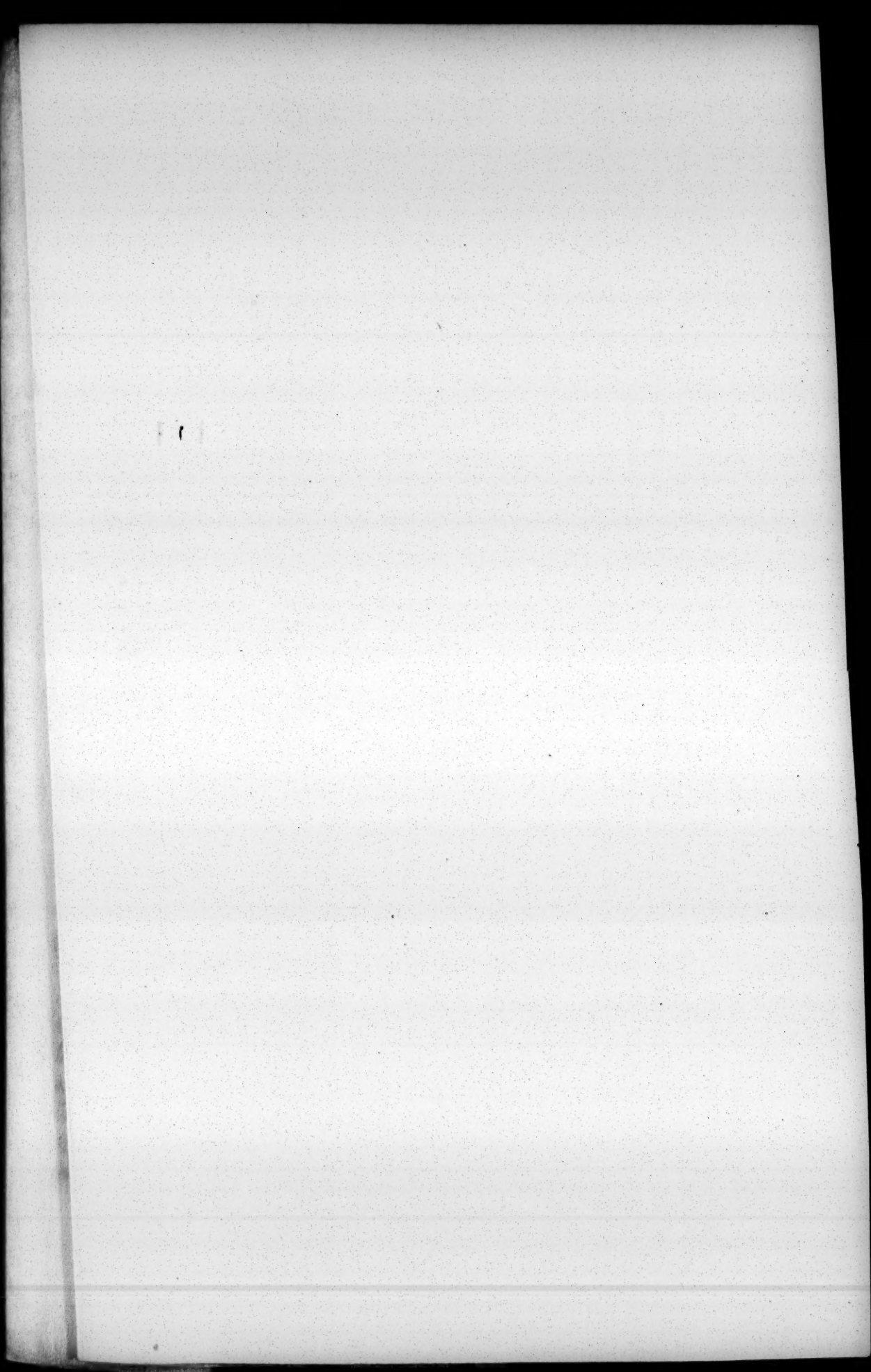
When their *Wives* or *Children* come to call the *Husband* or *Parent* Home, they *deny* them, and use them *scurvily*.

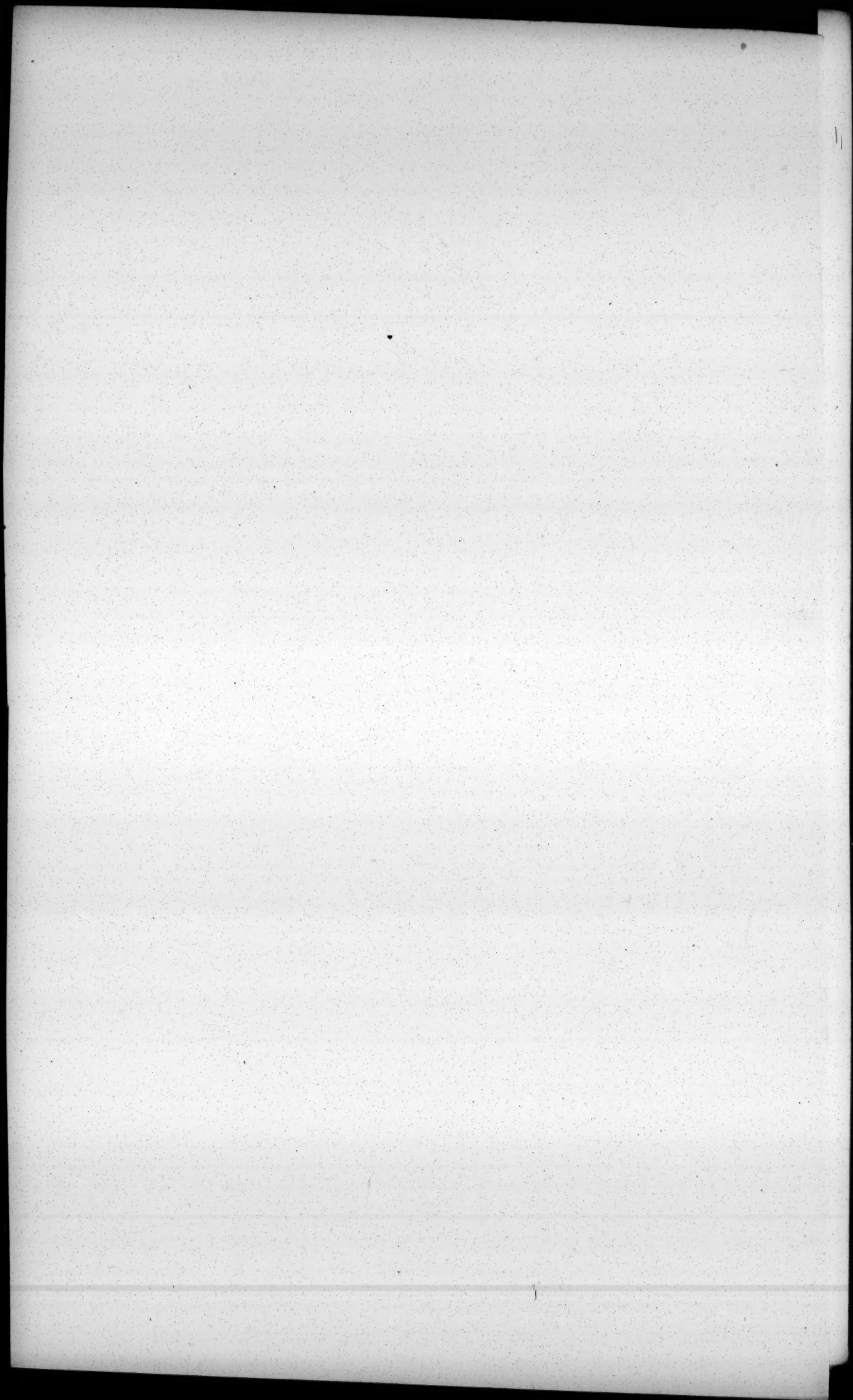
Here they get a vicious *Habit* of *Gaming* and *Sotting*, *Lewdness*, and *Swearing*, and, by *Degrees*, give themselves up to all *Manner* of *Wickedness*; and neglecting their *Work*, leave their *Wives* and *Children* a *Burthen* to the *Parish*.

'Tis for the *Credit* of the last *Grand Jury*, to whom I gave this *Matter* in *Charge*, that they have presented *several* of them in the *upper Part* of *Westminster*; and much for the *Honour* of those *Gentlemen* in the *Commission* of the *Peace*, that have stood by them herein.

The other *Sort* of *Gaming-Houses* help to undo *Persons* of the *first Quality*, and *Young Gentlemen* of *Estates*.

We sent to enquire lately about the *Gaming-Room* at *Hampstead*, and we had an *Account* brought us, That just before our *Messenger* came, there was a *Young Gentleman* lost *Sixty Guineas* to a *Sharper* of this *Town*; who went off as soon as he had got his *Prey*: It seems it was the *Young Gentleman's ALL*; which put him upon such a *Frenzy*, that he threw his *Hat* one *Way*, his *Peruque* another; said, He was ruin'd, and
undone





undone in Body, Soul, and Estate, by Gaming; and having one Guinea left, threw that away also, and fell into a Fit of Cursing and Swearing, and Blaspheming the Name of God: Which, I believe, are the common Effects of losing Gamesters.

We had an Account *that the Shops and Tables for Gaming there, had been the Ruin of a great many Young Gentlemen. Were not Men undone by Gaming, yet if the Losers generally curse and blaspheme the Name of God; this, this only, is a sufficient Motive to a worthy Man, to set his Face against these Gaming-Houses, and prevent them.*

But alas! What is the Loss of Sixty Guineas? 'Tis said, that somewhere, in or near *Marybone*, there are Persons of Quality that set a *Thousand Pounds upon a Throw. A Sum* that would buy an *Annuity of One Hundred Pounds a Year for Life*, by which a private Gentleman might live comfortably, and do much Good in the World: Or, it would buy an *Estate in Fee-simple* to keep an ordinary Man's Family, and Posterity, as long as it, or the World shall endure.

What have these Persons to answer both to God and Man, for throwing away so much Money in the *sixtieth Part of a Minute* that would provide for a Family as long as the World endures? It is charg'd upon Nero, as one of his great Faults, tho' he was Emperor of the greatest Part of the then known World, and had the Riches of the Universe in his Power, *that he usually plaid away ten Thousand Crowns at a Cast of Dice; for whose Extravagancy, Luxury, and other Crimes, he became so hated by all his Subjects, that he was his own Executioner at last.*

It is remarkable, that even *sharping Gamesters*, tho' they win ever so much Money, at some Times, they lose it afterwards, and generally dye *Beggars*.

Of which we have two famous Instances of late, amongst many others; That two *Noblemen*, one of the greatest *Estate* in the *Kingdom*; and the other had above *Thirty Thousand Pounds a Year*, and the most ancient of the *Nobility*, that was the *Augustulus* of his Family, both great *Gamesters*, and both gamed together; sometimes for *Twenty Thousand Pounds*, at a *Night's Sitting*; both dyed *Beggars*, and both their Families are *extinguished*.

Riches are a great *Blessing*; because they are the *Means* to furnish us with the *Necessaries and Conveniences of Life*; not only to provide for our *Families and Relations*, but they give us the happy Opportunity of doing Good to *Mankind*.

God has furnish'd the *World* with every Thing necessary and convenient for all the *Inhabitants of the Earth* that are *alive at one Time*; which justifies the *Divine Providence*, as to his *Justice*, in the *Government of the World*; and whereas (*Government being from God*) it is as necessary for *Government*, that there should be a *Subordination of Men*; as that there should be an *Inequality of Estates*.

Now God's Attributes of *Bounty and Mercy*, are both herein manifest. For that his Majesty hath commanded the *Full* to feed the *Hungry*;

gry; the Rich to help the Poor; the Powerful to assist the Weak; the Redundant, the Needy.

If we have *over and above* what will make a due *Provision* for our selves, Families, and Relations, according to our *Circumstances of Life*, wherein *Discretion* is to be *Judge*; the Poor have a *Right* to; and he that vainly squanders that away through *Luxury* or *Gaming*, or any other *Vice*, may be *justly said* to rob the *Poor*.

The *Rich* are but *Trustees* for the *Poor*, in this *Case*, and let them look to it, how they abuse their *Trust*, the mighty *Talent* of *Riches* bestow'd upon them.

What these *Gamesters* will have to answer for themselves, at the last *Day*, let *Dives*, and them think of, and tremble.

It is a greater *Act of Charity*, and *Self-Denial*, to continue to do good to a *Man* who is *ungrateful*, than to him that is *thankful*.

Thanks are a *Sort of Payment* to an *ingenuous Mind*; it being a *Pleasure* to receive *Thanks*, as well as to give them where due.

But 'tis yet a much greater *Act of Charity* to do *Good* to *Mankind*, without their *Desires*; and 'tis *superlative Goodness* to do it against their *Will*; In this last *Case*, we imitate *God himself*; who [did] and would often have gathered the *People of Jerusalem* together, as a *Heng* gathers her *Chickens* under her *Wings*; (but
E 2 they

they would not be so gathered (that is saved) who compell'd some to come in.

Gaming-Houses are to be presented and suppress'd, that they who have the Itch of Gaming on their Fingers, may want an Opportunity and Means of undoing themselves. Let us save them without their Thanks, without their Desire, nay against their Will.

Gamesters should be serv'd as Norris does Madmen: He locks them up; puts Bars in their Windows; takes Knives from them; that they may not cut their own Throats, or do themselves some other Mischief, which may save the Expence of a Commission of Lunacy.

Weights and Measures. *Take Care of Weights and Measures, that the People may not be cheated in their Bread or Drink; and that the Butchers Weights be according to the Standard.*

And present all Forefallers, Regrators, and Ingrossers; for these inhance the Price of Victuals, and render the Poor less able to support their Families.

Seditious Pamphlets; Lying News-Papers. *Present the Authors, Printers, and Dispersers of seditious Pamphlets, and Lying News-Papers, that endeavour to bring the Government into Contempt, and sour the People against the Administration.*

We are grown wanton with Liberty and Property, and so we are like to continue,
till

'till Slavery comes upon us, which our Sins deserve.

When Blessings are long abus'd, God Almighty, in his Providence, does often remove them from Mankind.

The *Abusing of Liberties and Franchises*, even by our Law, in many Cases, incur a Forfeiture.

As for *Play-Houses, Bawdy-Houses, Masquerades, Gaming Assemblies, Night-Walkings*, and such other Crimes, with which this Town abounds; I have spoken so fully against them in my former Charge, which is in Print; that I shall not trouble you with them any farther at this Time; but refer you to that Charge.

And I pray God guide you in your Presentments.

F I N I S.

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